

Introduced by Senator Vargas

February 18, 2011

An act to amend Section 34631.5 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 719, as amended, Vargas. Vehicles: motor carrier of property: insurance.

Existing law requires proof of financial responsibility before a motor carrier permit may be granted to any motor carrier of property and specifies the acceptable documentation for proof of that financial responsibility, which is required to be deposited with the Department of Motor Vehicles and cover each vehicle used or to be used under the motor carrier permit. Existing law requires every motor carrier of property, as defined, to provide adequate protection against liability for the payment of damages in certain amounts, except as specified. ~~The operator of a for-hire tow truck who meets this requirement is authorized to perform emergency moves at the direction of a peace officer irrespective of the load carried aboard the vehicle being moved.~~

~~The bill would make technical, nonsubstantive changes to these provisions.~~

This bill would authorize the director of the department to initiate a rulemaking process, upon making a finding that the minimum coverage requirements are insufficient, to alter, by regulation, the required coverage amounts to better reflect market conditions, costs, and operational risks. The bill would also authorize the director to alter the minimum coverage requirements for motor carriers based on the

time, place, and manner of their operations, including a motor carrier's operations while operating off of a public highway if that operation is being conducted pursuant to its motor carrier permit.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 34631.5 of the Vehicle Code is amended
2 to read:

3 34631.5. (a) (1) A motor carrier of property as defined in
4 Section 34601, except those subject to paragraph (2), (3), or (4),
5 shall provide and thereafter continue in effect adequate protection
6 against liability imposed by law upon those carriers for the payment
7 of damages in the amount of a combined single limit of not less
8 than seven hundred fifty thousand dollars (\$750,000) on account
9 of bodily injuries to, or death of, one or more persons, or damage
10 to or destruction of, property other than property being transported
11 by the carrier for any shipper or consignee whether the property
12 of one or more than one claimant in any one accident.

13 (2) A motor carrier of property, as defined in Section 34601,
14 who operates only vehicles under 10,000 pounds GVWR and who
15 does not transport any commodity subject to paragraph (3) or (4),
16 shall provide and thereafter continue in effect adequate protection
17 against liability imposed by law for the payment of damages caused
18 by bodily injuries to or the death of any person; or for damage to
19 or destruction of property of others, other than property being
20 transported by the carrier, in an amount not less than three hundred
21 thousand dollars (\$300,000).

22 (3) A intrastate motor carrier of property, as defined in Section
23 34601, who transports petroleum products in bulk, including waste
24 petroleum and waste petroleum products, shall provide and
25 thereafter continue in effect adequate protection against liability
26 imposed by law upon the carrier for the payment of damages for
27 personal bodily injuries (including death resulting therefrom) in
28 the amount of not less than five hundred thousand dollars
29 (\$500,000) on account of bodily injuries to, or death of, one person;
30 and protection against a total liability of those carriers on account
31 of bodily injuries to, or death of more than one person as a result
32 of any one accident, but subject to the same limitation for each

person in the amount of not less than one million dollars (\$1,000,000); and protection in an amount of not less than two hundred thousand dollars (\$200,000) for one accident resulting in damage to or destruction to property other than property being transported by the carrier for any shipper or consignee, whether the property of one or more than one claimant; or a combined single limit in the amount of not less than one million two hundred thousand dollars (\$1,200,000) on account of bodily injuries to, or death of, one or more persons or damage to or destruction of property, or both, other than property being transported by the carrier for any shipper or consignee whether the property of one or more than one claimant in any one accident.

(4) Except as provided in paragraph (3), a motor carrier of property, as defined in Section 34601, that transports any hazardous material, as defined by Section 353, shall provide and thereafter continue in effect adequate protection against liability imposed by law on those carriers for the payment of damages for personal injury or death, and damage to or destruction of property, in amounts of not less than the minimum levels of financial responsibility specified for carriers of hazardous materials by the United States Department of Transportation in Part 387 (commencing with Section 387.1) of Title 49 of the Code of Federal Regulations. The applicable minimum levels of financial responsibility required are as follows:

		Combined Single Limit Coverage
	Commodity Transported:	
(A)	Oil listed in Section 172.101 of Title 49 of the Code of Federal Regulations; or hazardous waste, hazardous materials and hazardous substances defined in Section 171.8 of Title 49 of the Code of Federal Regulations and listed in Section 172.101 of Title 49 of the Code of Federal Regulations, but not mentioned in subparagraph (C) or (D).	\$1,000,000
(B)	Hazardous waste as defined in Section 25117 of the Health and Safety Code and in Article 1 (commencing with Section 66261.1) of Chapter 11 of Division 4.5 of Title 22 of the California	\$1,000,000

Code of Regulations, but not mentioned in subparagraph (C) or (D).

(C) Hazardous substances, as defined in Section 171.8 of Title 49 of the Code of Federal Regulations, or liquefied compressed gas or compressed gas, transported in cargo tanks, portable tanks, or hopper-type vehicle with capacities in excess of 3,500 water gallons. \$5,000,000

(D) Any quantity of division 1.1, 1.2, or 1.3 explosives; any quantity of poison gas (Poison A); or highway route controlled quantity radioactive materials as defined in Section 173.403 of Title 49 of the Code of Federal Regulations. \$5,000,000

(5) (A) *The director, upon making a finding that the minimum coverage requirements pursuant to this subdivision are insufficient, may initiate a rulemaking process to alter, by regulation, the coverage amounts to better reflect market conditions, costs, and operational risks.*

(B) *The director may alter the minimum coverage requirements for motor carriers based on the time, place, and manner of their operations, including a motor carrier's operations while operating off of a public highway if that operation is being conducted pursuant to its motor carrier permit.*

(b) (1) The protection required under subdivision (a) shall be evidenced by the deposit with the department, covering each vehicle used or to be used in conducting the service performed by each motor carrier of property, an authorized certificate of public liability and property damage insurance, issued by a company licensed to write the insurance in the State of California, or by a nonadmitted insurer subject to Section 1763 of the Insurance Code.

(2) The protection required under subdivision (a) by a motor carrier of property engaged in interstate or foreign transportation of property in or through California, shall be evidenced by the filing and acceptance of a department authorized certificate of insurance, or qualification as a self-insurer as may be authorized by law.

(3) A certificate of insurance, evidencing the protection, shall not be cancelable on less than 30 days' written notice to the

1 department, the notice to commence to run from the date notice is
2 actually received at the office of the department in Sacramento.

3 (4) A certificate of insurance or equivalent protection to the
4 public shall contain a provision that the certificate or equivalent
5 protection shall remain in full force and effect until canceled in
6 the manner provided by paragraph (3).

7 (5) Upon cancellation of an insurance certificate or the
8 cancellation of equivalent protection authorized by the Department
9 of Motor Vehicles, the motor carrier permit of any motor carrier
10 of property, shall stand suspended immediately upon the effective
11 date of the cancellations.

12 (6) A motor carrier shall not engage in any operation on any
13 public highway of this state during the suspension of its permit.

14 (7) A motor carrier of property, whose permit has been
15 suspended under paragraph (5) shall not resume operations unless
16 and until the carrier has filed an insurance certificate or equivalent
17 protection in effect at the time and that meets the standards set
18 forth in this section. The operative rights of the complying carriers
19 shall be reinstated from suspension upon the filing of an insurance
20 certificate or equivalent protection.

21 (8) In order to expedite the processing of insurance filings by
22 the department, each insurance filing made should contain the
23 insured's California carrier number, if known, in the upper right
24 corner of the certificate.

25 (c) (1) Notwithstanding any other provision of law, the operator
26 of a for-hire tow truck who is in compliance with subdivision (a)
27 may perform emergency moves, irrespective of the load carried
28 aboard the vehicle being moved.

29 (2) For the purposes of paragraph (1), an "emergency move" is
30 limited to one or more of the following activities:

31 (A) Removal of a disabled or damaged vehicle or combination
32 of vehicles from a highway.

33 (B) Removal of a vehicle or combination of vehicles from public
34 or private property following a traffic collision.

35 (C) Removal of a vehicle or combination of vehicles from public
36 or private property to protect public health, safety, or property.

37 (D) Removal of a vehicle or combination of vehicles from any
38 location for impound or storage, at the direction of a peace officer.

39 (3) The authority granted under paragraph (1) applies only to
40 the first one-way carriage of property from the scene of the

1 emergency to the nearest safe location. Any subsequent move of
2 that property shall be subject to subdivision (a), including, but not
3 limited to, a requirement that the for-hire tow truck operator have
4 a level of liability protection that is adequate for the commodity
5 being transported by the towed vehicle or combination of vehicles.
6 (4) Any transportation of property by an operator of an operator
7 of a for-hire tow truck that is not an emergency move, as authorized
8 under paragraph (1), shall be subject to subdivision (a), including,
9 but not limited to, a requirement that the for-hire tow truck operator
10 have a level of liability protection that is adequate for the
11 commodity being transported by the towed vehicle or combination
12 of vehicles.

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